In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-1851

IN RE GRAND JURY SUBPOENA

R.E. HUNTLEY COTTON COMPANY, ET AL.,
PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES SUGGESTING MOOTNESS

On December 20, 1973, the individual petitioners, Gibson Hemphill and R.E. Huntley, were adjudged in civil contempt by the United States District Court for the Northern District of Texas, for their refusal to obey an order of the court directing them to produce before a grand jury subpoenaed financial records of petitioner R.E. Huntley Cotton Company, a partnership of which they are the only members; they were ordered detained in the custody of the United States Marshal until they complied with the order or until the term of the grand jury expired. The court stayed enforcement of the order pending an appeal to the court of appeals. On April 9, 1974, the court of appeals affirmed the order, and

on May 22, 1974, it declined to stay its mandate pending the filing of a petition for a writ of certiorari. On May 28, 1974, Mr. Justice Powell also denied a stay.

We have been advised by the United States Attorney that the district court thereafter stayed the contempt order pursuant to agreement by petitioners to produce the records called for; that petitioners have since produced most of the records without at any time having been in custody; and that on July 18, 1974, the term of the grand jury expired. Consequently, by the terms of the contempt order, the case is now moot. *E.g., St. Pierre* v. *United States,* 319 U.S. 41, 43; *Baldridge* v. *United States,* 406 F. 2d 526, 527 (C.A. 5); cf. *Gompers* v. *Bucks Stove & Range Co.,* 221 U.S. 418, 441-442.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

AUGUST 1974.